

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL NO. 04-30124-MAP

ALEX DELGADO, Petitioner,

vs.

KATHLEEN M. DENNEHEY, Respondent.

PETITIONER'S SECOND STATUS REPORT AND MOTION
FOR FURTHER ENLARGEMENT
OF TIME FOR FILING MOTIONS

Petitioner Alex Delgado moves the Court for additional time in which to comply with its order directing that the parties file dispositive motions or a motion for an evidentiary hearing on or before January 28, 2005. In connection with his claims that his right to a jury representing a fair cross section of the population was violated, and that the state courts violated his right to access to the data and resources necessary to present his fair cross section claim, Petitioner intends to file *ex parte* motions requesting an order or orders granting him financial assistance under the Criminal Justice Act.

Petitioner's counsel has contacted Gordon F. Sutton, Professor of Sociology emeritus at the University of Massachusetts - Amherst, who has agreed to assist counsel as an expert advisor and expert witness in the development of his fair cross section claims. Professor Sutton, whose curriculum vita has previously been submitted, served in this capacity in Petitioner's motion for new trial in the Hampden Superior Court and so is familiar with the project involved and did substantial work on the project several years ago. At present, Professor Sutton is working as a consultant with the

Donahue Institute, an organization which provides assistance to the Massachusetts Jury Commissioner in its efforts to strengthen the fairness of the jury venires generated by the jury composition system currently in use.

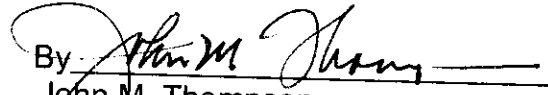
Professor Sutton and I have reviewed the materials generated in connection with the state court proceedings in Petitioner's case and are in the process of formulating what remains to be done to develop the claims for habeas litigation. We are investigating the availability of the additional data needed, the availability of adequate means to put the data into usable condition and, based on the results of these inquiries, to formulate the project in a way that will allow me to present a proposal to the Court accompanied by a rationalized request for funds.

Professor Sutton has not yet been able to determine whether he will be able to obtain the needed data from the Massachusetts Jury Commissioner. He has written to the present Jury Commissioner making a formal request for the data he believes he needs to assist me in presenting Mr. Delgado's fair cross section claim. A copy of Professor Sutton's March 3, 2005 letter of inquiry to Jury Commissioner Pamela Wood is attached. The amount of CJA funding Petitioner will request depends upon the Jury Commissioner's response to this inquiry. Since Petitioner does not know how promptly the Jury Commissioner will respond, he requests that he be permitted to April 1, 2005 to either file his motion for funds or to submit a status report to the Court informing the Court of his efforts to obtain the requested data from the Jury Commissioner.

Opposing counsel who has assented to this request.

Wherefore, Petitioner Alex Delgado requests an order permitting him to submit his ex parte motion for financial assistance on or before April 1, 2005.

Respectfully submitted,
ALEX DELGADO, PETITIONER

By: 
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Certificate of Service

The undersigned certifies that a true and accurate copy of the foregoing motion has been served upon Assistant Attorney General Annette Benedetto, One Ashburton Place, Boston, MA 02108 by first class mail, postage prepaid, this 4th day of March, 2005.


John M. Thompson

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BY: LCT

March 3, 2005

Ms. Pamela J. Wood, Esq.
Jury Commissioner
Trial Court
Commonwealth of Massachusetts
560 Harrison Ave
Boston MA 02118-2447

Dear Madam:

This is to ask for your assistance in obtaining a copy of the Jury Wheel for Essex and Hampden Counties, based upon the town and city listings as of January 1993 and assembled for use in 1993-94.

I have been asked by an attorney, John Thompson, Esq., of Springfield, for defendant Alex Delgado, who is working on his appeal before the U.S. Federal Court in the District of Massachusetts. Mr. Thompson had previously invited my participation in Mr. Delgado's defense a few years ago. At that time, I prepared materials based upon the components of the 1993 Jury Wheel for the two counties for the months of July, August and September. The data analyzed appeared to show underrepresentation of minorities in the jury selection process which may have raised questions regarding the terms of fairness from the perspective of the Court.

While the Court's decision in this case did not favor Mr. Delgado's claim, this case is now on appeal before a Federal Court, for which a more comprehensive review of the conditions of selection applied to this jury selection seems to be in order. Mr. Frank Davis, Esq., the previous Jury Commissioner, had graciously made available the earlier samplings of the Wheel for the counties and dates indicated above, the preparatory work carried out by Brian Patterson, former employee of the Commissioner. Mr. Cavanaugh of your staff has indicated that because earlier work had been done on this same Wheel that the needed materials might be available. It is at his suggestion that I am writing to you.

I would like to express my appreciation for your consideration of this letter. Your help in this matter is most urgently requested.

Gordon F. Sutton, Ph.D.
Principal

Cc: John Thompson, Esq.